Academic Authors and Copyright: Recent Developments in Scholarly Communication

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Information Environmentalism
Scholarly Communication

- Changes in the physical environment require action to respond to a new THREAT.
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- Changes in the information environment require action to respond to a new OPPORTUNITY.
Scholarly Communication

➢ So, who's in charge?
Scholarly Communication

- Authors are in charge, under the law.
- Since 1710, copyright has been an author's right.
Scholarly Communication

➢ Copyright Basics

• Copyright applies to works of authorship
• Copyright is limited to the author's choice of expression but does not cover ideas or facts.
  • E.g., experimental data not copyrighted, but an original selection or arrangement of data would be.
• The work can range from full-length books to individual figures, charts, or other units.
Copyright Basics

- Copyright is automatic.
- At the moment article is written, federal law showers down exclusive rights upon author(s)
  - Reproduce a work in copies
  - Distribute copies
  - Prepare derivative works
  - Publicly perform
  - Publicly display
Scholarly Communication

➢ Copyright Basics

• Copyright covers any work that is “substantially similar”
• Partial borrowing or adaptations also fall within copyright
  • Exception: Borrowing small amounts, e.g., short quotes, not covered.
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Copyright Basics

• Copyright is transferable

• Copyright owner can give permission or non-exclusive license very informally. Verbal permission or even implied from conduct.

• To transfer some or all of the exclusive rights, author(s) must do so in writing and sign it.
Scholarly Communication

➢ Copyright Basics

• *Copyright is transferable*

• Let's look at the environment created by routine copyright transfers in scholarly articles and related literature.
Copyright Basics

• **Fair Use allows a range of uses**

• If you are borrowing ideas, facts, or very small amounts of expression, that is not covered.

• Borrowing the author's expression – sending copies to the class, republishing figures, showing film clips in class – is covered.

• But, fair use permits use of the expression without the copyright owner's permission if the factors favor the use.
Scholarly Communication

➢ Copyright Basics
  • Fair Use allows a range of uses
  • Nature and purpose of the use
    • Commercial/Non-commercial?
    • Transformative – changing context or expression?
  • Nature of the work
  • Amount and substantiality borrowed
  • Effect on the copyright owner's market
    • Look at aggregate effects
    • Consider plausibility of market for licenses
Copyright Basics

- **Fair Use allows a range of uses**
- Some publishers failing to exercise fair use rights.
  - Do you need to get a license to use two lines from a pop song at the beginning of a book chapter?
  - No! It may not even be covered, and if it is, that's a fair use.
    - (Nature and purpose are to make a point, even if commercially, and no plausible harm to the songwriter's market.)
Are the terms of the trade fair?
No.
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- Researchers write for impact, not for money.
- Need a publisher to have impact.
- The publisher's brand name becomes a symbol of impact.
- Author trades her copyright for a share in the publisher's trademark.
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original sin, the bondage of the will, and predetermination as unbiblical, irrational, and derogatory to God's goodness. Reason was a divine spark that both allowed and required that humans strive for perfection (perfectionism). Opponents would not unfairly tie Adamism with the Comenius belief.

Comenius never formally left the Catholic Church, although he stopped attending mass. No matter how enraged with corruption, the Catholic Church remained the only church with divine attention. All other churches were sets since they could offer no proof of God's will. As a Pietist, he admired Pietism in both doctrine and communion, and he believed that many needed some ritual to support their faith. Comenius accepted Pietism's soteriology, but limited the range of human understanding. If there was obscurity or confusion about an issue, it was best to simply drop it: "Know or let go."

Comenius's disagreement with James Lipton made clear that the Church was not the only threat to freedom of conscience. Lipton would require the State to maintain a single faith, whichever happened to be predominant. Lipton's own spiritualistic views (he associated with the Faculty of Love) led him to abandon the entire control nexus to the state. In Comenius and Lipton, spiritualism produced diametrically opposed prescriptions on the role of the state. Luther's "Two Kingdoms" theology had suffered a similar fate in Lutheran hands.
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Um, what about the Internet?
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- Five Audiences that Open Access serves
  - Serendipitous readers
  - Under-resourced readers
  - Interdisciplinary readers
  - International readers
  - Machine readers
Open access increases impact

![Graph showing percentage of articles freely available online by number of citations for different years.]
Funding OA: Journals (1)

- **Fee based OA journals**
  - Widely assumed to be the only kind, but actually the minority model
- **No fee OA journals**
  - Many different models, little-studied
Publication Fees for PLoS Journals

To provide open access, PLoS journals use a business model in which our expenses — including those of peer review, of journal production, and of online hosting and archiving — are recovered in part by charging a publication fee to the authors or research sponsors for each article they publish. Authors who are affiliated with one of our Institutional Members are eligible for a discount on this fee.

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"Thank you and your staff so much for making the publication"
Funding OA: Journals (3)

- No-fee journals
  - Direct or indirect institutional subsidies
    - From universities, labs, research centers, libraries, hospitals, museums, learned societies, foundations, govt agencies
  - Advertising, auxiliary services, membership dues, endowments, or reprints
  - A print or premium edition
  - A separate line of non-OA publications
“Green” Open Access

- Retain the rights to post author's final version online
  - Many publication agreements already grant authors this right. Please use it!
- Change the deal. Amend the publication agreement
  - Authors can answer the publisher's form with their own.
Growth of Institutional OA

- **National Institutes of Health – PubMed Central**
  - Grant requirement to submit author’s final manuscript not later than 12 months after publication.

- **University Permission to Archive**
  - Began outside the U.S. Within U.S., Harvard first to make OA the default.
  - Faculty authors give university right to host author’s manuscript in institutional repository.

Growing momentum.
Growth of Institutional OA

- Will White House order NIH policy extended to all agencies?
- Federal Research Public Access Act
  - Bill to require funding agencies with budgets over $100 million to require OA for articles arising from funding.
Assignment

- Check your copyright agreements, and put your existing work online.
Assignment

- Where publisher's agreement prohibits open access, negotiate!
  - Authors' addenda can help.
Assignment

- Consider the access policy of journals when submitting.
Assignment

- Act institutionally.
  - Can this University develop a university license?
  - Members of scholarly societies. What are YOUR journals' policies on open access?
Check your copyright agreements, and put your existing work online when legal.

Consider the access policy of journals when submitting.

Where publisher's agreement prohibits open access, negotiate!

Act institutionally.

- Can UMd develop a university license?
- Members of scholarly societies. What are the journals' policies on open access?
Faculty Copyrights

Questions?